

RUSH MOORE LLP  
A Limited Liability Law Partnership

SUSAN TIUS 2873-0  
737 Bishop Street, Ste. 2400  
Honolulu, Hawaii 96813-3862  
Telephone No.: (808) 521-0406  
Facsimile No.: (808) 521-0497  
E-mail: [stius@rmhawaii.com](mailto:stius@rmhawaii.com)

STARN O'TOOLE MARCUS & FISHER  
A Law Corporation

TERENCE J. O'TOOLE 1209-0  
SHARON V. LOVEJOY 5083-0  
RICHARD J. WALLSGROVE 9054-0  
733 Bishop Street, Suite 1900  
Honolulu, Hawaii 96813  
Ph: (808) 537-6100  
E-mail: [Totoole@starnlaw.com](mailto:Totoole@starnlaw.com)  
E-mail: [Slovejoy@starnlaw.com](mailto:Slovejoy@starnlaw.com)  
E-mail: [Rwallsgrove@starnlaw.com](mailto:Rwallsgrove@starnlaw.com)

Attorneys for KE KAILANI PARTNERS LLC

UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re	)Case No. 11-00019
	)(Chapter 11)
KE KAILANI DEVELOPMENT LLC,	)
	)Date: May 16, 2011
Debtor.	)Time: 9:30 a.m.
	)Judge: Honorable Robert J. Faris
	)
_____	)Related Docket No.

MOTION TO DISMISS CHAPTER 11 CASE AND APPROVE  
STIPULATION FOR DISMISSAL OF CHAPTER 11 CASE; EXHIBIT "1"

KE KAILANI PARTNERS LLC ("KKP"), a Secured Creditor of  
KE KAILANI DEVELOPMENT LLC ("Debtor"), the above-named Debtor,  
moves this Court for entry of an Order dismissing the Debtor's

Chapter 11 case, effective immediately upon the Court's entry of the Order Dismissing Chapter 11 Case. This Motion is based on the facts and circumstances set forth in the Stipulation for Dismissal of Chapter 11 Case; Exhibit "A" ("Stipulation"), attached hereto as Exhibit "1". The Stipulation is entered between the Debtor, Secured Creditors KKP and the Ke Kailani Community Association, The Association of Villa Owners of Ke Kailani and Mauna Lani Resort Association, through counsel. The Stipulation, page 3, intentionally leaves blank the date in May 2011, of entry of an Order Granting Relief From Automatic Stay, which Order has been submitted, but not yet entered by, the Court.

This Motion is filed pursuant to 11 U.S.C. § 1112(b), Bankruptcy Rule 1017, LBR 9013-1(c)(4)(c), the Stipulation, and such other and further matters as may be presented herein.

DATED: Honolulu, Hawaii, May 4, 2011.

/s/Susan Tius  
SUSAN TIUS

/s/Richard Wallsgrove  
TERENCE J. O'TOOLE  
SHARON V. LOVEJOY  
RICHARD J. WALLSGROVE  
Attorneys for KE KAILANI  
PARTNERS LLC

RUSH MOORE LLP  
A Limited Liability Law Partnership

SUSAN TIUS 2873-0  
737 Bishop Street, Ste. 2400  
Honolulu, Hawaii 96813-3862  
Telephone No.: (808) 521-0406  
Facsimile No.: (808) 521-0497  
E-mail: [stius@rmhawaii.com](mailto:stius@rmhawaii.com)

STARN O'TOOLE MARCUS & FISHER  
A Law Corporation

TERENCE J. O'TOOLE 1209-0  
SHARON V. LOVEJOY 5083-0  
RICHARD J. WALLSGROVE 9054-0  
733 Bishop Street, Suite 1900  
Honolulu, Hawaii 96813  
Ph: (808) 537-6100  
E-mail: [Totoole@starnlaw.com](mailto:Totoole@starnlaw.com)  
E-mail: [Slovejoy@starnlaw.com](mailto:Slovejoy@starnlaw.com)  
E-mail: [Rwallsgrove@starnlaw.com](mailto:Rwallsgrove@starnlaw.com)

Attorneys for KE KAILANI PARTNERS LLC

UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re	)	Case No. 11-00019
	)	(Chapter 11)
KE KAILANI DEVELOPMENT LLC,	)	
	)	
Debtor.	)	
	)	
	)	
_____	)	Judge: Honorable Robert J. Faris

STIPULATION FOR DISMISSAL OF CHAPTER 11 CASE; EXHIBIT "A"

This Stipulation is entered between KE KAILANI  
DEVELOPMENT LLC ("Debtor"), the above-named debtor-in-possession,  
Secured Creditors Ke Kailani Partners LLC ("KKP") and Ke Kailani

S:\Wpdata\STius\Ke Kailani Development\Stipulation for Dismissal 5-3-11.wpd

Community Association, The Association of Villa Owners of Ke Kailani and Mauna Lani Resort Association (collectively the "Associations"), through counsel, with reference to the below-described facts.

There is a pending foreclosure action entitled Bank of Hawaii, et al. v. Ke Kailani Development, LLC et al., Civil No. 09-1-2523, First Circuit Court, State of Hawaii, regarding all real and personal property (the "Secured Property") securing the obligations of the Debtor to KKP, as the successor Plaintiff, in the foreclosure action. The Secured Property generally consists of a development project comprised of 39 single-family home lots and 12 condominiums covering one of the lots, located within the Mauna Lani Resort in South Kohala on the Island of Hawaii.

On January 5, 2011, the Debtor filed its Chapter 11 Petition, which stayed the foreclosure action. The Debtor remains as a debtor-in-possession.

On March 31, 2011, the Court entered an Order granting Secured Creditor KKP's Motion to Determine that the Debtor is a Single Asset Real Estate Debtor, Subject to 11 U.S.C. Section 362(d)(3) ("SARE Order"). Under the SARE Order, the Debtor, as a condition to receiving the continued protection of the automatic stay as provided under 11 U.S.C. Section 362(d)(3), either was required by April 13, 2011 to have commenced making monthly contractual interest payments on its secured debts to KKP or file

a Plan having a reasonable possibility of confirmation in a reasonable period of time.

On May 2, 2011, at the final hearing on Secured Creditor KKP's Renewed Motion for Relief from Stay to Proceed with Foreclosure Action and Appeal, Filed January 25, 2011 ("MFR"), the Debtor informed the Court that the Debtor is unable to comply with SARE Order and orally withdrew its objection to the MFR.

On May 2, 2011, an Order Granting Relief from Automatic Stay was entered, terminating the automatic stay to permit KKP's exercise of its non-bankruptcy rights and remedies, including proceeding with the foreclosure action.

At the MFR hearing on May 2, 2011, the parties further informed the Court that they will seek a consensual dismissal of the Chapter 11 case. The Court granted KKP's oral Motion to shorten time for providing notice of the hearing on the dismissal, scheduled the hearing for May 16, 2011, and established a deadline of seven days after filing and service of the dismissal Motion for the filing of any responses to the dismissal Motion. The Court directed that, if no timely response is filed within such seven day period, a Declaration and Request for Entry of Order may be submitted along with a proposed Order Dismissing Chapter 11 Case.

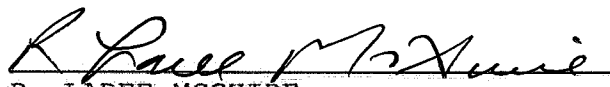
IT IS HEREBY AGREED that:

1. The parties consent to entry of an Order Dismissing Chapter 11 Case, in the form attached hereto as Exhibit "A", subject to modification by the Court.
2. On or before May 9, 2011, the Debtor shall pay the United States Trustee's Quarterly Fees due for the first and second quarters of 2011. Payment of the Quarterly Fees shall be evidenced by the Debtor's prompt filing in the case of a Notice confirming that such payment has been made.
3. The dismissal of this case shall bar the Debtor from filing a subsequent voluntary petition under Title 11 until closing of a sale of the property which is described in and is the subject of the pending foreclosure action entitled Bank of Hawaii, et al. v. Ke Kailani Development, LLC et al., Civil No. 09-1-2523, First Circuit Court, State of Hawaii. If a voluntary petition is accepted, the case will be dismissed as soon as practicable without further notice, and any stay imposed under any Section of the Bankruptcy Code shall be ineffective as of the date of filing of the petition without further notice.
4. The Bankruptcy Court will reserve jurisdiction to enforce the terms of this Stipulation for Dismissal of Chapter 11 Case.

5. This Stipulation for Dismissal of Chapter 11 Case is subject to entry of a final Court Order approving its terms.

  
\_\_\_\_\_  
GARY V. DUBIN  
Attorney for Debtor

Dated: May 3, 2011.

  
\_\_\_\_\_  
R. LAREE MCGUIRE  
Attorney for Ke Kailani Community  
Association, The Association of  
Villa Owners of Ke Kailani and  
Mauna Lani Resort Association

Dated: May 4, 2011.

/s/Susan Tius  
\_\_\_\_\_  
SUSAN TIUS

and

/s/Richard J. Wallsgrove  
\_\_\_\_\_  
SHARON V. LOVEJOY  
RICHARD J. WALLSGROVE  
Attorneys for Ke Kailani  
Partners LLC

Dated: May 3, 2011.

In re KE KAILANI DEVELOPMENT LLC, Case No. 11-00019; STIPULATION  
FOR DISMISSAL OF CHAPTER 11 CASE; EXHIBIT "A"

RUSH MOORE LLP  
A Limited Liability Law Partnership

SUSAN TIUS 2873-0  
737 Bishop Street, Ste. 2400  
Honolulu, Hawaii 96813-3862  
Telephone No.: (808) 521-0406  
Facsimile No.: (808) 521-0497  
E-mail: [stius@rmhawaii.com](mailto:stius@rmhawaii.com)

STARN O'TOOLE MARCUS & FISHER  
A Law Corporation

TERENCE J. O'TOOLE 1209-0  
SHARON V. LOVEJOY 5083-0  
RICHARD J. WALLSGROVE 9054-0  
733 Bishop Street, Suite 1900  
Honolulu, Hawaii 96813  
Ph: (808) 537-6100  
E-mail: [Totoole@starnlaw.com](mailto:Totoole@starnlaw.com)  
E-mail: [Slovejoy@starnlaw.com](mailto:Slovejoy@starnlaw.com)  
E-mail: [Rwallsgrove@starnlaw.com](mailto:Rwallsgrove@starnlaw.com)

Attorneys for KE KAILANI PARTNERS LLC

UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re	)	Case No. 11-00019
	)	(Chapter 11)
KE KAILANI DEVELOPMENT LLC,	)	
	)	
Debtor.	)	
	)	Judge: Honorable Robert J. Faris
	)	
_____	)	Related Docket No.

ORDER DISMISSING CHAPTER 11 CASE; EXHIBIT "1"

The Motion to Dismiss Chapter 11 Case and Approve  
Stipulation for Dismissal of Chapter 11 Case filed herein by KE  
KAILANI PARTNERS LLC ("KKP"), and the Stipulation for Dismissal

S:\Wpdata\STius\Ke Kailani Development\Stipulation for Dismissal-ORDER Exhibit 1 5-4-11.wpd

EXHIBIT "A"



of Chapter 11 Case ("Dismissal Stipulation") entered between KKP, and KE KAILANI DEVELOPMENT LLC ("Debtor"), the above-named Debtor, having been reviewed by the Court together with the Declaration and Request for Entry of Order filed herein on May 12, 2011, and the records and files in the case, and the Court, having found that no objection or request for hearing was filed and served in a timely manner, and having considered the facts and circumstances of this case and based on the foregoing, and good cause appearing therefor,

IT IS HEREBY ORDERED that:

1. The Motion to Dismiss Chapter 11 Case and Approve Stipulation for Dismissal of Chapter 11 Case is granted, and the Stipulation for Dismissal of Chapter 11 Case, attached hereto as Exhibit "1", is approved.

2. The Chapter 11 case of KE KAILANI DEVELOPMENT LLC, Case No. 11-00019, is hereby dismissed, effective immediately.

3. The dismissal of this case shall bar the Debtor from filing a subsequent voluntary petition under Title 11 until closing of a sale of the property which is described in and is the subject of the pending foreclosure action entitled Bank of Hawaii, et al. v. Ke Kailani Development, LLC et al., Civil No. 09-1-2523, First Circuit Court, State of Hawaii. If a voluntary petition is accepted, the case will be dismissed as soon as practicable without further notice, and any stay imposed under

any Section of the Bankruptcy Code shall be ineffective as of the date of filing of the petition without further notice.

4. The Bankruptcy Court will reserve jurisdiction to enforce the terms of the Stipulation for Dismissal of Chapter 11 Case.

DATED: Honolulu, Hawaii.

APPROVED AS TO FORM:

---

GARY V. DUBIN  
ANDREW R. TELLIO  
Attorneys for Debtor

---

R. LAREE MCGUIRE  
Attorney for Ke Kailani Community  
Association, The Association of  
Villa Owners of Ke Kailani and  
Mauna Lani Resort Association

---

SUSAN TIUS

and

---

SHARON V. LOVEJOY  
RICHARD J. WALLSGROVE  
Attorneys for Ke Kailani  
Partners LLC

In re KE KAILANI PARTNERS LLC, Case No. 11-00019; Order Granting Motion to Dismiss Chapter 11 Case and Approve Stipulation for Dismissal of Chapter 11 Case.